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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,778	12/29/2003	William J. LaBarge	DP-309619	1356
7590	09/20/2006		EXAMINER NGUYEN, CAM N	
Paul Marshall Delphi Technologies, Inc. M/C-480-410-202 P.O. Box 5052 Troy, MI 48007			ART UNIT 1754	PAPER NUMBER

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/747,778	Applicant(s) LABARGE ET AL.	
	Examiner Cam N. Nguyen	Art Unit 1754	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07/06/06 (an election).  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
     4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 18-27 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/29/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Election/Restrictions

1. Applicant's election without traverse of Group II, claims 18-27, in the reply filed on 07/06/06 is acknowledged.
2. Claims 1-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 07/06/06.

### Claim Rejections - 35 USC § 112 (Second Paragraph)

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 18-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - A. Claim 18 recites the limitation "a precious metal" in line 4-5. There is insufficient antecedent basis for this limitation in the claim.
  - B. Claim 18 recites the limitation "a solid solution" in line 5. There is insufficient antecedent basis for this limitation in the claim.

**Claim Rejections - 35 USC § 102(a)**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 18-22 & 25-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Hori et al., “hereinafter referred to as Hori”, (US Pat. 6,649,731 B2).

Hori discloses a process of preparing a catalyst comprising a solid titanium compound, which formed from a product of hydrolysate of a mixture of a titanium halide or a titanium alkoxide and a compound of at least one element selected from the group consisting of metal compounds including yttrium, lanthanum, zirconium, and the claimed precious metals, such as ruthenium, rhodium, palladium etc., with a polyhydric alcohol (see col. 34, claims 1-7). See also entire document and examples for more details.

There is no patentable distinction seen between the claimed process and that disclosed by the reference. Thus, the claims are anticipated by the teaching of Hori.

**Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hori et al., "hereinafter referred to as Hori", (US Pat. 6,649,731 B2).

Hori discloses a process of preparing a catalyst as described above, except for the claimed heat treating temperature being greater than or equal to about 700°C.

It would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have optimized such heat treating temperature in the process of Hori in order to effectively heat treating the catalyst material since it involves only routine experimentation of one having the ordinary skill in the art to do so, and in view of *In re Boesch*.

#### Citations

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

#### Conclusion

10. Claims 1-27 are pending. Claims 1-17 are withdrawn due to nonelected (distinct) invention(s). Claims 18-27 are rejected. No claims are allowed.

#### Contacts

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

September 15, 2006

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